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FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS
AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF
THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION

NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

Report of the second International Workshop on National Institutions for the Promotion and Protection of Human Rights

(Tunis, 13-17 December 1993)

Addendum

GE.94-11582 (E)

DRAFT OPTIONAL PROTOCOL TO THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD CONCERNING THE ELIMINATION OF SEXUAL EXPLOITATION AND TRAFFICKING IN CHILDREN*

The States Parties to the present Protocol,

Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that children are entitled to special care and assistance,

Considering that, in the Convention on the Rights of the Child, States Parties have committed themselves to undertake all appropriate legislative, administrative and other measures to ensure the effective implementation of the rights recognized in that Convention,

Noting, in particular, specific obligations undertaken by States Parties to protect children from all forms of abuse, including sexual exploitation, and including but not limited to those obligations set out in Articles 11, 19, 32, 34, 35, 36, 39 and 42 of the Convention on the Rights of the Child,

Considering that the sexual exploitation of children through prostitution, pornography and trafficking has assumed new and alarming dimensions at both national and international levels,

Convinced that the elimination of sexual exploitation, abuse and trafficking in children is essential for the enhancement and progressive development of human rights,

Noting that it is in the interests of States Parties to harmonize, as far as possible, their national legislation on sexual exploitation of children in order to improve the coordination and effectiveness of action taken at both national and international levels,

Have agreed as follows:

Article 1

1. States Parties recognized that crimes of sexual exploitation of or trafficking in children represent crimes against humanity.

2. For the purposes of this Protocol these crimes include commission as principal or accessory, conspiracy or incitement to commit such offences, activity preparatory to commission of such offences and knowingly facilitating or profiting from the commission of such offences.

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* The present document has been prepared by the Human Rights and Equal Opportunity Commission of Australia to serve as a basis for recommendations to be addressed to the Commission on Human on Rights on the issue of elimination of sexual exploitation and trafficking of children.

Article 2

States Parties agree:

(a) to give effect in their national legislation to the principle of universal criminal jurisdiction regarding crimes of sexual exploitation or of trafficking in children wherever committed;

(b) to enter into appropriate bilateral and multilateral arrangements to give effect to this principle;

(c) in particular, to ensure that their national legislation extends to crimes of sexual exploitation of or trafficking in children involving their own nationals, persons resident or domiciled within their territory, or corporations or associations operating within their territory, occurring within the territory of other States.

Article 3

States Parties undertake to cooperate by all appropriate means, including in particular within the framework of bilateral and multilateral arrangements, for the purpose of prevention, detection, prosecution and punishment of crimes of sexual exploitation of or trafficking in children, including:

(a) the cooperation of police forces for the detention and apprehension of offenders and the investigation of offences;

(b) mutual recognition and reception of evidence of such offences, in a manner which gives maximum protection to the rights of children concerned;

(c) seizure and confiscation of proceeds from, or property used in, the commission of such offences;

(d) compensation to victims of such offences in accordance with national legislation, including where applicable from the property of offenders;

(e) exchange of information to facilitate prevention of international travel for the purpose of engaging in crimes of sexual exploitation of, or trafficking in, children.

Article 4

States Parties recognize that rehabilitation of victims of crimes of sexual exploitation and trafficking in children, and alleviation of circumstances contributing to such crimes, should be a priority in their social development programmes and have a high priority in development assistance and cooperation.

Article 5

1. Each State Party shall promote awareness of the effects of sexual exploitation and support for measures to prevent such exploitation by:

(a) making appropriate documentation concerning human rights and sexual exploitation of children available to parents, persons having minors in their care, concerned groups and associations, and the general public;

(b) promoting and encouraging programmes aimed at furthering awareness and training for those who have functions involving support and protection of children in the fields of education, health, social welfare and the justice system in order to enable them to identify cases of sexual exploitation and to take appropriate measures;

(c) publicizing prosecutions and convictions in cases involving the sexual exploitation of children, while ensuring the anonymity of the children concerned.

Article 6

States Parties to the present Protocol shall include in the reports they submit to the Committee on the Rights of the Child, in accordance with article 44 of the Convention, information on the measures they have adopted to give effect to the present Protocol.

Article 7

The provisions of the present Protocol shall apply as additional provisions to the Convention.

Article 8

1. The present Protocol is open for signature by any State which has signed the Convention.

2. The present Protocol is subject to ratification by any State which has ratified the Convention or acceded to it. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. The present Protocol shall be open to accession by any State which has ratified the Convention or acceded to it.

4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

5. The Secretary-General of the United Nations shall inform all States that have signed the present Protocol or accede to it of the deposit of each instrument of ratification or accession.

Article 9

1. The present Protocol shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the tenth instrument of ratification or accession.

2. For each State ratifying the present Protocol or acceding to it after the deposit of the tenth instrument of ratification or accession, the Protocol shall enter into force three months after the date of the deposit of their own instrument of ratification or accession.

Article 10

The provisions of the present Protocol shall extend to all parts of federal States without any limitations or exceptions.

Article 11

The Secretary-General of the United Nations shall inform all States referred to in Article 46 of the Convention of the following particulars:

(a) Signatures, ratifications and accessions under Article 8 of the present Protocol;

(b) The date of the entry into force of the present Protocol pursuant to Article 9.

Article 12

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States referred to in Article 46 of the Convention.